EXPLANATORY MEMORANDUM TO

The Common Agricultural Policy (Direct Payments to Farmers) (Miscellaneous Amendments) Regulations (Northern Ireland) 2020

S.R. 2020 No. 22

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Development ("the Department") to accompany this statutory rule (SR) which is laid before the Northern Ireland Assembly.

1.2 The SR is made under section 3(3)(a) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c.2) (DPLC Act), and is subject to confirmatory resolution procedure.

2. Purpose

2.1 The SR makes minor, technical amendments to correct deficiencies in Northern Ireland domestic regulations to ensure that they continue to operate effectively in Northern Ireland for the Direct Payments Scheme Year 2020.

2.2 The amendments update cross-references to retained EU legislation, add a reference to the 2020 scheme year and remove the power for EU officials to undertake inspections now that the United Kingdom has left the EU.

2.3 These Regulations amend the following Northern Ireland CAP regulations insofar as they relate to Direct Payments for the claim year 2020:

- the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015 (SR 2015 No.191); and
- the Common Agricultural Policy (Control and Enforcement) Regulations (Northern Ireland) 2015 (SR 2015 No.192).

3. Background

3.1 The UK-wide DPLC Act received Royal Assent on 30 January 2020. It provides powers to fill a legal gap created by Article 137 of the Withdrawal Agreement of 19 October 2019 which disapplied from exit day Regulation (EU) 1307/2013 (The Direct Payments Regulation). It did this so that the UK does not have to pay into the next EU budget.

3.2 The DPLC Act incorporates the disapplied EU legislation into domestic law as far as it relates to the Direct Payment schemes for claim year 2020.

Without amendment, that body of legislation and subordinate legislation relating to it would contain inoperable provisions. As a result, existing law would either be unclear or would not function effectively. The effect of this would be to hinder the Department's ability to administer the Direct Payment schemes effectively, and to make payments to eligible farmers in Northern Ireland, for claim year 2020.

3.3 Two UK-wide statutory instruments, the Rules for Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020 No.91) and the Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020 No.90), made minor and technical amendments to the body of retained EU legislation related to CAP payments under powers contained in the DPLC Act in order to address deficiencies relating to claim year 2020.

3.4 These Regulations make further minor technical amendments to correct deficiencies in Northern Ireland domestic regulations to ensure that Direct Payments continue to operate effectively in Northern Ireland for the Direct Payments Scheme Year 2020.

3.5 The amendments update cross-references to EU legislation, add a reference to the 2020 scheme year and remove the reference for EU Commission representatives to accompany an authorised person on farm given that the EU will not be auditing the use of national monies.

4. Consultation

4.1 These Regulations have not been subject to consultation because they aim to retain the *status quo* for the 2020 claim year, and are purely technical in nature and therefore make no substantive policy changes. They are needed to correct inoperabilities and simply provide continuity and stability for Direct Payments recipients. Farmers have planned on the basis that the 2020 Direct Payment scheme will continue to operate without interruption and that they will receive payment.

5 Equality Impact

5.1 These Regulations make only minor and technical amendments to domestic legislation and does not introduce any policy change and therefore will have no equality impact. The two sets of regulations that these Regulations amend were each assessed for their equality impacts prior to their being made. In each case it was concluded that the legislation would have no impact on equality. Given that the changes made by these Regulations introduce no new policy, this conclusion remains unchanged.

6. Regulatory Impact

6.1 Given the minor nature of the amendments, it is considered there are no impacts on the private, voluntary or public sector as a result of these

changes. Therefore, a Regulatory Impact Assessment has not been completed.

7. Financial Implications

7.1 As only minor drafting amendments are being made there are no financial implications associated with the introduction of these Regulations.

8. Section 24 of the Northern Ireland Act 1998

8.1 These Regulations make only minor and technical amendments to domestic legislation and does not introduce any policy change and therefore will have no impact on human rights. The two sets of regulations that the Regulations amend were each assessed for their human rights impacts prior to their being made. In each case it was concluded that the legislation would have no impact on human rights. Given that the amendments contained in these Regulations introduce no new policy, this conclusion remains unchanged.

8.2 These Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 These Regulations make minor technical amendments to correct deficiencies in Northern Ireland domestic regulations in accordance with Article 137 of the Withdrawal Agreement and the DPLC Act. They ensure that the Direct Payments regime under retained EU legislation will continue to operate effectively in Northern Ireland insofar as it relates to the Direct Payments Scheme Year 2020.

10. Parity or Replicatory Measure

10.1 These Regulations replicate the Direct Payments 2020 continuation regulations in England, Scotland and Wales. See:

- In relation to England - The Rules for Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020 No.91).
- In relation to Scotland - The Direct Payments to Farmers (Legislative Continuity) (Scotland) (Miscellaneous Amendments) Regulations 2020 (SSI. 2020 No.18).
- In relation to Wales – The Common Agricultural Policy (Direct Payments to Farmers) (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020 No.104 (W.17)).

11. Additional Information

11.1 Not applicable.